

MASSACHUSETTS
40 main st, suite 301
florence, ma 01062
tel 413.585.1533
fax 413.585.8904

WASHINGTON
501 third street nw, suite 875
washington, dc 20001
tel 202.265.1490
fax 202.265.1489



October 21, 2010

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

Via Electronic Filing

Re: Notice of Ex Parte Presentation in: Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations, MB Dkt. 00-168; In the Matter of Sponsorship Identification Rules and Embedded Advertising; MB Docket 08-90; Applications of Comcast Corporation, General Electric Company and NBC Universal, Inc. For Consent to Assign Licenses or Transfer Control of Licensees MB Docket 10-56

Dear Ms. Dortch,

Pursuant to section 1.1206(b) of the Commission's rules, Free Press submits this notice regarding an *ex parte* communication in the above referenced dockets.

On October 20, 2010, Corie Wright of Free Press met with Joshua Cinelli, Media Advisor to Commissioner Michael Copps. In the meeting, Ms. Wright discussed the following issues pending before the Commission:

Standardized and Enhanced Disclosure (FCC Form 355):

Ms. Wright stressed the need to promptly implement Form 355 (adopted in 2008)¹ as a critical tool in providing the public with the information it needs to hold local broadcasters accountable to their communities of license, as well as to provide the Commission with the data it requires to make informed media policy decisions. For example, Form 355 would provide the FCC with information that would allow it to better assess how media structure affects the provision of news and information, as well as to evaluate whether and how broadcast licensees are using multicast capabilities gained through the digital television transition.

¹ *Standardized and Enhanced Disclosure Requirements for Television Broadcast Licensee Public Interest Obligations; Extension of the Filing Requirement for Children's Television Programming Report*, Report and Order, 15 FCC Rcd 19816 (2008).

Video News Releases and the FCC Sponsorship Identification Rules:

Ms. Wright expressed concern over reports of the growing use of undisclosed commercials in television newscasts² in violation of the Commission's sponsorship identification rules.³ Additionally, Ms. Wright explained that even where local stations technically may be abiding by the FCC sponsorship identification rules, the public still may not realize they are watching commercial content because most broadcasters relegate sponsorship identification disclosures to a minuscule, fast moving scroll at the end of the program credits. To address these problems, the FCC should (1) launch an investigation into these new instances of covert commercials in news programs to determine whether these stations have violated the Commission's sponsorship identification rules, and (2) re-open the Commission's extant proceeding on sponsorship identification rules and promulgate rules requiring stricter and more prominent disclosure so that viewers can distinguish between *bona fide* news and commercial content.⁴

The Proposed Comcast/NBCU Merger

Consistent with previous Free Press filings submitted in MB Dkt 10-56, Ms. Wright presented Free Press' concerns with the proposed acquisition of NBC-Universal by Comcast Corp. Ms Wright emphasized the inadequacy of Comcast and NBCU's commitments with respect to local broadcast programming. Ms. Wright stressed that the merger applicants' promise to provide additional local programming for the NBC owned and operated stations is dubious and unenforceable because the applicants have not clearly explained what they mean by local programming, or that it will be locally-originated, or will touch upon local news and public affairs. Moreover, neither the Commission nor the public can monitor or enforce this commitment under the terms the applicants have proposed, as the applicants have not volunteered to report on such programming themselves. As a consequence, neither consumers nor the Commission have the ability to determine the baseline amount of local news programming currently aired by NBC owned and operated stations, and certainly cannot determine whether Comcast and NBCU are following through on their promise to increase local programming as a condition of the merger.

Ms. Wright also discussed how the current Cablevision/Fox retransmission consent dispute illustrates the potential for the Comcast/NBCU merger to exacerbate already contentious retransmission consent disputes in which consumers are deprived of programming for which they have paid and expect to receive. A Comcast-controlled NBCU has greater incentives than a stand-alone broadcasters to raise retransmission consent rates for competing pay-TV service providers, leading to higher bills for

² See *Free Press Letter to Chairman Genachowski Regarding Possible Sponsorship Identification Violations*, filed MB Dkt. 08-90 (Sept. 27, 2010) (citing recent *Los Angeles Times* reports of the increasing use of undisclosed commercial material in news programming).

³ Specifically, Section 317 of the Communications Act of 1934 requires broadcasters to make sponsorship identification announcements in any programming for which consideration has been received and to "exercise reasonable diligence" to acquire sponsorship information. See 47 U.S.C. § 317(a)(1). See also 47 C.F.R. § 73.121. Section 76.1615 of the Commission's rules applies the broadcast provisions of Section 317 of the Communications Act to "origination cablecasting."

⁴ *Sponsorship Identification Rules and Embedded Advertising*, Notice of Inquiry and Notice of Proposed Rulemaking, MB Docket No. 08-90, 23 FCC Rcd 10682 (2008).

consumers who subscribe to rival services, and giving Comcast an anticompetitive advantage over small cable operators, satellite television providers such as Dish Network and DirecTV, or telco TV services such as Verizon FiOS or AT&T U-Verse. Additionally, in the event that such disputes reach an impasse, Comcast would have a strong motive to pull NBC programming from cable and online platforms in an attempt to siphon off competing MVPD providers' customers.⁵

In accordance with the Commission's rules, this *ex parte* notice is being filed electronically in the above referenced docket. If you have any questions regarding this filing please do not hesitate to contact me.

Respectfully
submitted,

A handwritten signature in black ink, reading "Coriell S. Wright". The signature is written in a cursive, flowing style.

Coriell Wright
Policy Counsel
Free Press
Washington, D.C.
202-265-1490
cwright@freepress.net

⁵ See *Free Press Letter to Chairman Genachowski Regarding the Cablevision/Fox Retransmission Consent Dispute and Its Implications for the Proposed Comcast/NBCU Merger*, filed MB Dkt 10-56 (Oct., 20, 2010).